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Respondent

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## JURISDICTION

## PROCEDURAL HISTORY

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17, 2008. Respondent and his counsel, Mr. Pressley appeared on that date. The parties attempted a settlement, but none was reached and the matter was rescheduled to April 4, 2008.

On April 2, 2008 the Hearing Officer received a voicemail request for continuance from Respondent. The Respondent cited as the basis for the continuance that he was ill and needed to go out of town for treatment and therefore could not appear for his hearing scheduled for April 4, 2008. The Hearing Officer did not return Respondent's telephone call because he was represented by counsel. The Hearing Officer instead emailed Mr. Pressley, Respondent's counsel, and informed him what information the Hearing Officer required Respondent to submit before she could make a determination regarding his request for a continuance. Later the same day, Mr. Pressley responded to the Hearing Officer's email and indicated that he had spoken to Respondent who "indicated that he will not be providing the requested information as he feels that it is an invasion of his privacy. Moreover, he will not be at the hearing on Friday as he will be leaving town this evening. I will appear on Friday, as required, on his behalf." This latter request for continuance was not granted by the Hearing Officer because the Respondent failed to produce the required information.

A hearing was held on April 4, 2008 at the Department of Insurance, Securities and Banking, 810 First Street, NE, Washington, D.C., 20002. Adam Levi, Assistant Attorney General, represented the Petitioner. John F. Pressley, Jr., Esquire, represented the Respondent. The Respondent did not appear. The hearing was conducted for the purpose of considering the Respondent's appeal of the Petitioner's denial of his application for a District of Columbia Individual Insurance Producer License. Following the hearing, the record remained open until April 18, 2008. No submissions were made by either the Petitioner or the Respondent between the hearing date (April 4, 2008) and the close of the record (April 18, 2008).

### **ISSUES CONSIDERED**

- (1) Whether Respondent answered questions on his applications for an Individual Insurance Producer License that were incorrect, misleading, incomplete or materially untrue in violation of D.C. Official Code §31-1131.12(a)(1)(2001)?
- (2) Whether Respondent's failure to provide required information on his applications for an Individual Insurance Producer License was an attempt to obtain a license through misrepresentation or fraud in violation of D.C. Official Code §31-1131.12(a)(3)(2001)?
- (3) Whether Respondent's conduct in the application process and in meetings with DISB staff demonstrated incompetence and untrustworthiness in the conduct of business in the District of Columbia in violation of D.C. Official Code §31-1131.12(a)(8)(2001)?
- (4) Whether the denial of Respondent's application for a District of Columbia Individual Insurance Producer's License for violation of D.C. Official Code §31-1131.12(a)(1) and (3)(2001) should be upheld?



## EVALUATION AND ANALYSIS OF THE EVIDENCE

### Evaluation

D.C. Code Official Code §31-1131.12(a)(1), (3) and (8) state:

“(a) The Commissioner may place an insurance individual or business entity producer on probation; suspend, revoke, or refuse to issue or renew an insurance producer’s license, may levy a civil penalty in accordance with subsection (d) of this section; may issue subpoenas and administer oaths; or take any combination of these actions if an insurance producer:

- (1) Provides incorrect, misleading, incomplete, or materially untrue information in the license application;
- (3) Obtains, or attempts to obtain, a license through misrepresentation or fraud;
- (8) Uses fraudulent, coercive, or dishonest practices, or demonstrates incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in the District or elsewhere; . . . .

The first witness to testify on behalf of the Petitioner (DISB) was Ms. Betty Bates, Fraud Compliance Manager, DISB. Ms. Bates indicated that she investigated Respondent’s case. As part of her investigation, she was asked to verify Respondent’s employment history. Ms. Bates testified that she contacted American General Life Insurance Company (AGLIC) to verify Respondent’s employment as an insurance agent and when she did so the company had no listing for Respondent as an insurance agent during the subject time period. Ms. Bates then stated she transmitted her findings to Mr. Luther Ellis, Assistant Associate Deputy Commissioner and Ms. Zadie Bowles, Insurance Licensing Manager, (both of DISB’s licensing division), informing them that Respondent’s employment history could not be verified because there was no listing for Respondent as an insurance agent with AGLIC during the subject period.

Furthermore, Ms. Bates testified that during the course of her investigation upon reviewing Respondent’s on-line insurance producer application dated October 4, 2007, she questioned Respondent’s “N/A” response to Question 1A (“Have you ever been convicted of, or are you currently charged with, committing a crime, whether or not adjudication was withheld?”), in light of his response to Question 1 (“If you have a felony conviction, have you applied for a waiver as required by 18 USC 1033?”), in which Respondent responded “Yes”. (See Government’s Exhibit 4).

Ms. Bates also testified that as part of her investigation she discovered that Respondent answered Question 2 incorrectly on his insurance producer application by responding “No” to the question “Have you or any business in which you are or were an owner, partner, officer or director ever been involved in an administrative proceeding regarding any professional or occupational license? She stated that this response was not correct because there were two prior



administrative actions taken against Respondent by the State of Maryland, the first on November 25, 1983 (in which Respondent's license was suspended, a civil penalty was imposed and full restitution was ordered); and the second on April 26, 1999 (in which Respondent's Certificate of Qualification was revoked and an administrative penalty was imposed). (See Government's Exhibits 4, 5, 6)

Ms. Bates also testified that Respondent submitted a second application for an insurance producer's license on November 20, 2007. This application was handwritten. On that application, Ms. Bates indicated that Respondent answered "Yes" to Question 7 ("Have you or any business in which you are or were an owner, partner, officer or director, or member or manager of limited liability company, ever had an insurance agency contract or any other business relationship with an insurance company terminated for any alleged misconduct?") Once the applicant responds "Yes" to Question 7, the applicant is required to attach to the application: "a) a written statement summarizing the details of each incident and explaining why you feel this incident should not prevent you from receiving an insurance license, and b) certified copies of all relevant documents." Ms. Bates testified that the Respondent did provide attachments, but none of them related to the termination of a business. (See Government's Exhibit 7).

During cross-examination by Respondent's counsel Ms. Bates testified that she and Ms. Rhonda Blackshear, Attorney Advisor for DISB met with Respondent two (2) years ago. She indicated that it was an informal meeting in which Respondent was seeking a license and disclosed that certain information (in his past) was incorrect and that he was working to get it removed. The Respondent told Ms. Bates and Ms. Blackshear that the matter dated back to 1999 and that he was trying to get it straightened out. Ms. Bates testified that she questioned Respondent's response on his later applications because of the representations he made in this meeting.

After the Petitioner presented its case, the Hearing Officer asked Respondent's counsel if he was ready to proceed with the Respondent's case. Respondent's counsel replied that the Respondent's case would be put forth at a later time. This did not occur, because neither during the April 4, 2008 hearing or prior to the close of the record on April 18, 2008 did Respondent or his counsel present Respondent's case.

### Exhibits

Government's Exhibit #1:

December 7, 2007 letter from DISB to Respondent.

Government's Exhibit #2:

Official Notice of Hearing dated January 23, 2008 from DISB to Respondent.

Government's Exhibit #3:

Request for Continuance dated February 25, 2008 from Respondent's counsel to the Hearing Officer and Government's counsel.



Government's Exhibit #4:

Respondent's on-line application for an insurance producer's license dated October 4, 2007.

Government's Exhibit #5:

Order of Hearing from In the Matter of the Maryland Insurance Division vs. Alladin J. Dunne (Respondent) dated November 25, 1983.

Government's Exhibit #6:

Order from the Insurance Commissioner for the State of Maryland v. Alladdin Javal Dunne (Respondent) dated April 26, 1999.

Government's Exhibit #7:

DISB Uniform Application for Individual Insurance Producer License dated November 20, 2007 submitted by Respondent.

Respondent's counsel made no objections to the introduction of the Government's exhibits 1 through 7. The exhibits were therefore entered and made a part of the record. Respondent's counsel introduced no documentary evidence on behalf of the Respondent.

**Analysis**

**(1) Whether Respondent answered questions on his applications for an Individual Insurance Producer License that were incorrect, misleading, incomplete or materially untrue in violation of D.C. Official Code §31-1131.12(a)(1)(2001)?**

Petitioner's only witness, Ms. Betty Bates, Fraud Compliance Manager, DISB, testified about a number of matters surrounding the Respondent's application for an Individual Insurance Producer License. Ms. Bates initially testified that she was charged with investigating the Respondent's case and that as part of her investigation, she was required to verify Respondent's employment history. Ms. Bates testified that she contacted American General Life Insurance Company (AGLIC) to verify Respondent's employment as an insurance agent and when she did so the company had no listing for Respondent as an insurance agent during the subject time period. Ms. Bates then stated she transmitted her findings to Mr. Luther Ellis, Assistant Associate Deputy Commissioner and Ms. Zadie Bowles, Insurance Licensing Manager, (both of DISB's licensing division), informing them that Respondent's employment history could not be verified because there was no listing for Respondent as an insurance agent with AGLIC during the subject period.

Furthermore, Ms. Bates testified that during the course of her investigation upon reviewing Respondent's on-line insurance producer application dated October 4, 2007, she questioned Respondent's "N/A" response to Question 1A ("Have you ever been convicted of, or are you currently charged with, committing a crime, whether or not adjudication was withheld?"), in light of his response to Question 1 ("If you have a felony conviction, have you applied for a waiver as required by 18 USC 1033?"), in which Respondent responded "Yes". (See Government's Exhibit 4). Ms. Bates also testified that as part of her investigation she discovered that Respondent



answered Question 2 incorrectly on his insurance producer application by responding "No" to the question "Have you or any business in which you are or were an owner, partner, officer or director ever been involved in an administrative proceeding regarding any professional or occupational license? She stated that this response was not correct because there were two prior administrative actions taken against Respondent by the State of Maryland, the first on November 25, 1983 (in which Respondent's license was suspended, a civil penalty was imposed and full restitution was ordered); and the second on April 26, 1999 (in which Respondent's Certificate of Qualification was revoked and an administrative penalty was imposed). (See Government's Exhibits 4, 5, 6). Government's Exhibit 7, Respondent's on-line application for an insurance producer application dated October 4, 2007, also indicated the same response of "No" to the same question and provided no information regarding the two administrative actions that were taken against Respondent in the State of Maryland.

Respondent's counsel's response to this issue was contained in his closing statement where he argued that because of Respondent's earlier disclosure (in the meeting two years earlier) it was reasonable to conclude that Respondent was not trying to hide information. Counsel stated this raises questions. He also stated that Respondent may have had problems with inserting information into the on-line insurance producer application. In response to this contention by Mr. Pressley, Mr. Levi, Petitioner's counsel argued that Respondent had two opportunities to disclose the correct information on his application for an insurance producer's license and that if Respondent did not understand or had problems completing his application, he should have asked questions.

Petitioner presented substantial evidence and testimony that Respondent violated D.C. Official Code § 31-1131.12(a)(1). Petitioner's witness Ms. Bates presented overwhelming testimony that Respondent provided information on his application for an Individual Insurance Producer License that was incorrect (Respondent's erroneous employment history), misleading, incomplete and materially untrue information (Respondent's withholding of information regarding his felony conviction and administrative actions taken against him in the State of Maryland on November 25, 1983 and the second on April 26, 1999 in which Respondent's Certificate of Qualification was revoked). Respondent's argument as it relates to this issue was unpersuasive. Respondent counsel's arguments that Respondent was not hiding information because of his disclosures two years ago and that he may have had difficulty completing the on-line application was not supported by any evidence or testimony on the record.

Accordingly, the Hearing Officer finds that Respondent violated D. C. Official Code § 31-1131.12(a)(1) by answering questions on his application for an Individual Insurance Producer License that was incorrect, misleading, incomplete and materially untrue.

**(2) Whether Respondent's failure to provide required information on his applications for an Individual Insurance Producer License was an attempt to obtain a license through misrepresentation or fraud in violation of D.C. Official Code §31-1131.12(a)(3)(2001)?**

In the instant case Petitioner's witness, Ms. Betty Bates presented overwhelming testimony that Respondent failed to provide required information on his applications for Individual Insurance



Producer. (See discussion above under issue 1.)

In order to decide the issue of whether Respondent violated D.C. Official Code §31-1131.12(a)(3)(2001), a determination must be made as to whether Respondent's failure to provide the required information on his applications for Individual Insurance Producer was an attempt to obtain the his license either through misrepresentation or fraud.

Black's Law Dictionary with Pronunciations, Sixth Edition, West Publishing Co., 1990, p. 1001, defines misrepresentation as "an untrue statement of fact; an incorrect or false representation; and that which, if accepted, leads the mind to an apprehension of a condition other and different from that which exists."

Petitioner's witness, Ms. Bates testified that Respondent answered "No" to Question 2 and that Respondent's response was incorrect because he had in fact had two administrative actions against him related to his professional license. Respondent's counsel provided no evidence or testimony that Respondent's representation on his application was true. He argued that perhaps Respondent had difficulty completing his on-line application. Furthermore, Petitioner's witness, Ms. Bates testified that Respondent provided erroneous information regarding his employment history, which proved to be untrue when Ms. Bates attempted to verify whether he had been an insurance agent with AGLIC and discovered Respondent had not.

The overwhelming evidence and testimony of Petitioner reveals that Respondent's response to the required information on his applications for Individual Insurance Producer License contained untrue statements of fact and thereby misrepresentations, as discussed herein and above in the analysis of issues 1 and 2.

Accordingly, the Hearing Officer finds that Respondent's failure to provide required information on his applications for Individual Insurance Producer License was an attempt to obtain his license through misrepresentation.

**(3) Whether Respondent's conduct in the application process and in meetings with DISB staff demonstrated incompetence and untrustworthiness in the conduct of business in the District of Columbia in violation of D.C. Official Code §31-1131.12(a)(8)(2001)?**

The Petitioner presented no evidence or testimony that Respondent was conducting business in the District of Columbia. Accordingly, the Hearing Officer finds that the Respondent did not violate D.C. Official Code §31-1131.12(a)(8)(2001).

**(4) Whether the denial of Respondent's application for a District of Columbia Individual Insurance Producer's License for violation of D.C. Official Code §31-1131.12(a)(1) and (3)(2001) should be upheld?**

For the reasons discussed above under issues one (1) and two (2), the Hearing Officer has found that the Respondent violated D.C. Official Code §31-1131.12(a)(1) and (3)(2001). Accordingly, the Hearing Examiner finds that the denial of Respondent's application for a District of Columbia Individual Producer's License should be upheld.



## FINDINGS OF FACT

The Hearing Officer makes the following findings of fact based on the record as a whole:

1. An Official Notice of Hearing was sent to the Respondent on January 23, 2008, informing him of his hearing date of February 27, 2008.
2. On February 25, 2008 the Hearing Officer received a written request for continuance from Mr. John F. Pressley, Jr., Esquire, who was retained as Respondent's counsel. The continuance was granted and the hearing was rescheduled to March 17, 2008. Respondent and his counsel, Mr. Pressley appeared on that date. The parties attempted a settlement, but none was reached and the matter was rescheduled to April 4, 2008.
3. On April 2, 2008 the Hearing Officer received a voicemail request for continuance from Respondent. The Respondent cited as the basis for the continuance that he was ill and needed to go out of town for treatment and therefore could not appear for his hearing scheduled for April 4, 2008. The Hearing Officer did not return Respondent's telephone call because he was represented by counsel. The Hearing Officer instead emailed Mr. Pressley, Respondent's counsel, and informed him what information the Hearing Officer required Respondent to submit before she could make a determination regarding his request for a continuance. Later the same day, Mr. Pressley responded to the Hearing Officer's email and indicated that he had spoken to Respondent who "indicated that he will not be providing the requested information as he feels that it is an invasion of his privacy. Moreover, he will not be at the hearing on Friday as he will be leaving town this evening. I will appear on Friday, as required, on his behalf." This latter request for continuance was not granted by the Hearing Officer because the Respondent failed to produce the required information.
4. A hearing was held on April 4, 2008 at the Department of Insurance, Securities and Banking, 810 First Street, NE, Washington, D.C., 20002. Adam Levi, Assistant Attorney General, represented the Petitioner. John F. Pressley, Jr., Esquire, represented the Respondent. The Respondent did not appear. The hearing was conducted for the purpose of considering the Respondent's appeal of the Petitioner's denial of his Individual Insurance Producer License application. Following the hearing, the record remained open until April 18, 2008. No submissions were made by either the Petitioner or the Respondent between the hearing date (April 4, 2008) and the close of the record (April 18, 2008).
5. The first witness to testify on behalf of the Petitioner (DISB) was Ms. Betty Bates, Fraud Compliance Manager, DISB. Ms. Bates indicated that she investigated Respondent's case. As part of her investigation, she was asked to verify Respondent's employment history. Ms. Bates testified that she contacted American General Life Insurance Company (AGLIC) to verify Respondent's employment as an insurance agent and when she did so the company had no listing for Respondent as an insurance agent during the subject time period. Ms. Bates then stated she transmitted her findings to Mr. Luther Ellis, Assistant Associate Deputy Commissioner and Ms. Zadie Bowles, Insurance Licensing Manager, (both of DISB's licensing division), informing them that Respondent's employment history could not be verified because there was no listing



for Respondent as an insurance agent with AGLIC during the subject period.

6. Furthermore, Ms. Bates testified that during the course of her investigation upon reviewing Respondent's on-line insurance producer application dated October 4, 2007, she questioned Respondent's "N/A" response to Question 1A ("Have you ever been convicted of, or are you currently charged with, committing a crime, whether or not adjudication was withheld?"), in light of his response to Question 1 ("If you have a felony conviction, have you applied for a waiver as required by 18 USC 1033?"), in which Respondent responded "Yes". (See Government's Exhibit 4).

7. Ms. Bates also testified that as part of her investigation she discovered that Respondent answered Question 2 incorrectly on his insurance producer application by responding "No" to the question "Have you or any business in which you are or were an owner, partner, officer or director ever been involved in an administrative proceeding regarding any professional or occupational license? She stated that this response was not correct because there were two prior administrative actions taken against Respondent by the State of Maryland, the first on November 25, 1983 (in which Respondent's license was suspended, a civil penalty was imposed and full restitution was ordered); and the second on April 26, 1999 (in which Respondent's Certificate of Qualification was revoked and an administrative penalty was imposed). (See Government's Exhibits 4, 5, 6)

8. Ms. Bates also testified that Respondent submitted a second application for an insurance producer's license on November 20, 2007. This application was handwritten. On that application, Ms. Bates indicated that Respondent answered "Yes" to Question 7 ("Have you or any business in which you are or were an owner, partner, officer or director, or member or manager of limited liability company, ever had an insurance agency contract or any other business relationship with an insurance company terminated for any alleged misconduct?") Once the applicant responds "Yes" to Question 7, the applicant is required to attach to the application: "a) a written statement summarizing the details of each incident and explaining why you feel this incident should not prevent you from receiving an insurance license, and b) certified copies of all relevant documents." Ms. Bates testified that the Respondent did provide attachments, but none of them related to the termination of a business. (See Government's Exhibit 7).

9. During cross-examination by Respondent's counsel Ms. Bates testified that she and Ms. Rhonda Blackshear, Attorney Advisor for DISB met with Respondent two (2) years ago. She indicated that it was an informal meeting in which Respondent was seeking a license and disclosed that certain information (in his past) was incorrect and that he was working to get it removed. The Respondent told Ms. Bates and Ms. Blackshear that the matter dated back to 1999 and that he was trying to get it straightened out. Ms. Bates testified that she questioned Respondent's response on his later applications because of the representations he made in this meeting.

10. After the Petitioner presented its case, the Hearing Officer asked Respondent's counsel if he was ready to proceed with the Respondent's case. Respondent's counsel replied that the Respondent's case would be put forth at a later time. This did not occur, because neither during



the April 4, 2008 hearing or prior to the close of the record on April 18, 2008 did Respondent or his counsel present Respondent's case.

11. Respondent's counsel made no objections to the introduction of the Government's exhibits 1 through 7. The exhibits were therefore entered and made a part of the record. Respondent's counsel introduced no documentary evidence on behalf of the Respondent.

### **CONCLUSIONS OF LAW**

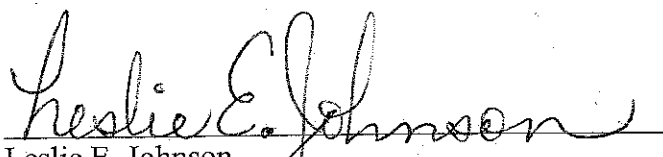
After a careful evaluation of the evidence and findings of fact, the Hearing Officer concludes, as a matter of law:

1. Respondent violated D.C. Official Code § 31-1131.12(a)(1)(2001) by answering questions on his applications for an Individual Insurance Producer License that were incorrect, misleading, incomplete or materially untrue.
2. Respondent violated D.C. Official Code §31-1131.12(a) (3) in failing to provide required information on his applications for an Individual Insurance Producer License that was an attempt to obtain a license through misrepresentation in violation of D.C. Official Code §31-1131.12(a)(3)(2001)?
3. Respondent's conduct did not violate D.C. Official Code §31-1131.12(a) (8) because there was no evidence or testimony that Respondent conducted business in the District of Columbia.
4. Respondent violated D.C. Official Code §31-1131.12(a)(1) and (3) and therefore the denial of his application for an Individual Insurance Producer's License should be upheld.



## ORDER

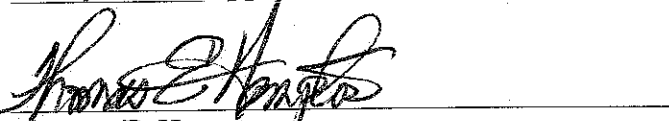
IT IS HEREBY ORDERED that the denial of Respondent's application for an Individual Insurance Producer's License is **HEREBY UPHOLD** for violations of D.C Official Code § 31-1131.12(a)(1) and (3).

  
Leslie E. Johnson  
Hearing Officer

Department of Insurance, Securities and Banking

Dated: This 5<sup>th</sup> day of June, 2008

X Approved \_\_\_\_\_ Disapproved

  
Thomas E. Hampton  
Commissioner

Department of Insurance, Securities and Banking

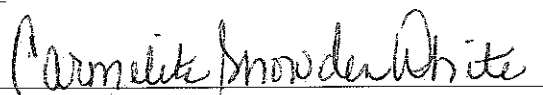
Dated: This 5<sup>th</sup> day of JUNE, 2008

## APPEAL RIGHTS

Pursuant to D.C. Official Code § 31-1131(b)(3) "a person affected by an order, ruling, proceeding, or action of the Commissioner, or any person acting on his behalf and at his instance, may contest the validity of the same in any court of competent jurisdiction by appeal or through any other appropriate proceedings."

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Proposed Decision and Order was sent by Certified U.S. Mail, return receipt requested, to Alladin J. Dunne, 1438 Fairmont Street, NW, Washington, D.C. 20009 on this 9<sup>th</sup> day of June, 2008.

  
Carmelita Snowden White  
Executive Assistant to the Commissioner